

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7031
BILL NUMBER: HB 1345

NOTE PREPARED: Jan 14, 2008
BILL AMENDED:

SUBJECT: Trespass.

FIRST AUTHOR: Rep. Robertson
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill grants immunity from civil liability for a person who owns, leases, or otherwise legally occupies real property for an injury or damage sustained by another person who: (1) enters or remains on the real property without consent; or (2) refuses to leave the real property after being asked to leave; unless the injury or damage is caused by an act or omission of the person that constitutes a criminal offense, gross negligence, or willful or wanton misconduct. The bill makes it criminal trespass, a Class A misdemeanor, for a person to knowingly or intentionally enter or remain on the real property of another person without the consent of the other person. The bill provides a defense for an accused person who had express, legal, or implied consent to enter or remain on the real property. The bill also provides exceptions for certain persons who are not specifically forbidden to enter or remain on real property.

Effective Date: July 1, 2008.

Explanation of State Expenditures:

Explanation of State Revenues: *Criminal Penalty:* Under current law, criminal trespass includes several circumstances such as entering or refusing to leave the real property of another, interfering with the possession or use of a property of another, and entering the dwelling of another. There are no data to indicate how many offenders may be convicted of this Class A misdemeanor if remaining on the real property of another would be added to the crime as proposed, or how the defense provided in the bill for an accused person would affect convictions.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines

are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Criminal Penalty:* A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Criminal Penalty:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected:

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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